

**Notice of Allowability**

Application No.

09/864,675

Examiner

Christopher J Nichols, Ph.D.

Applicant(s)

MARCHIONNI, MARK

Art Unit

1647

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 28 July 2004.
2. ☒ The allowed claim(s) is/are 55-57, 59-61 and 70-78.
3. ☒ The drawings filed on 07 June 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 4.8.02
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### DETAILED ACTION

#### *Status of Application, Amendments, and/or Claims*

1. The Response and Amendments filed 28 July 2004 has been received and entered in full.
2. The Response and Amendments filed 7 June 2004 has been received and entered in full.
3. All previous Objections and Rejections are hereby *withdrawn* in view of Applicant's amendments.

### EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

5. In the Claims:

Claims 1-54 (Cancelled)

Claim 55 (Previously Amended) An isolated nucleic acid molecule comprising a sequence encoding a polypeptide comprising the amino acid sequence set forth in SEQ ID NOs: 2 or 4.

Claim 56 (Previously Amended) An isolated nucleic acid molecule comprising the nucleic acid sequence set forth in SEQ ID NOs: 1 or 3.

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Claim 57 (Previously Amended) An isolated nucleic acid molecule consisting of the nucleic acid sequence set forth in SEQ ID NOs: 1 or 3.

Claim 58 (Cancelled)

Claim 59 (Original) A vector comprising the nucleic acid molecule of claim 55, operably linked to a promoter.

Claim 60 (Previously Amended) The vector of claim 59, wherein said vector is an expression vector.

Claim 61 (Currently Amended) A transformed host cell comprising the vector of claim 60.

Claims 62-69 (Cancelled)

Claim 70 (New) A vector comprising the nucleic acid molecule of claim 57, operably linked to a promoter.

Claim 71 (New) The vector of claim 70, wherein said vector is an expression vector.

Claim 72 (New) A transformed host cell comprising the vector of claim 71.

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Claim 73 (New) A method of producing a polypeptide comprising SEQ ID NO: 2, said method comprising:

culturing a host cell comprising SEQ ID NO: 1 under conditions to express the polypeptide comprising SEQ ID NO: 2, and  
purifying said polypeptide from the cell culture.

Claim 74 (New) A method of producing a polypeptide comprising SEQ ID NO: 4, said method comprising:

culturing a host cell comprising SEQ ID NO: 3 under conditions to express the polypeptide comprising SEQ ID NO: 4, and  
purifying said polypeptide from the cell culture.

Claim 75 (New) An isolated polypeptide comprising SEQ ID NO: 2.

Claim 76 (New) An isolated polypeptide comprising SEQ ID NO: 4.

Claim 77 (New) An isolated polypeptide consisting of SEQ ID NO: 2.

Claim 78 (New) An isolated polypeptide consisting of SEQ ID NO: 4.

6. Authorization for this examiner's amendment was given in a telephone interview with David Jackson on 30 August 2004.

*Summary*

7. Claims **55-57, 59-61, and 70-78** are hereby allowed.
8. The Examiner acknowledges that acceptance of the above Examiner's Amendment does not mitigate in any way, shape, or form, Applicant's right to pursue additional subject matter in continuation, continuation-in-part, and/or divisional applications pursuant to 35 U.S.C. §120 and §121.

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***Conclusion***

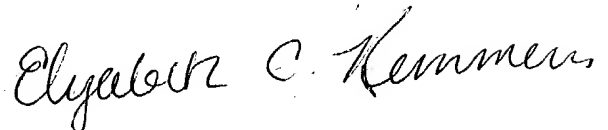
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher James Nichols, Ph.D.** whose telephone number is **(571) 272-0889**. The examiner can normally be reached on Monday through Friday, 8:00 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Brenda Brumback** can be reached on **(571) 272-0961**.

The fax number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

CJN

August 30, 2004



ELIZABETH KEMMERER  
PRIMARY EXAMINER